

SERVED: April 25, 2007

NTSB Order No. EA-5283

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 25th day of April, 2007

MARION C. BLAKEY,
Administrator,
Federal Aviation Administration,

Complainant,

v.

GREGORY ALAN SIMMONS,

Respondent.

Docket SE-17468

ORDER DENYING STAY

Respondent has requested a stay of NTSB Order No. EA-5275, served March 28, 2007, pending disposition of a petition for review of that order to be filed in the United States Court of Appeals. In NTSB Order No. EA-5275, the Board affirmed a 240-day suspension of respondent's private pilot certificate for violations of 14 C.F.R. §§ 91.13(a), 91.111(a), and 91.155(a). The Administrator opposes respondent's request for a stay of the order. The Board denies respondent's request.

The Board's policy with respect to stays of orders pending judicial appeals was summarized in Administrator v. Todd, NTSB Order No. EA-4399 (1995), in which we denied a request for stay of a 180-day suspension:

We generally grant a stay when a suspension of less than six months [180 days] is affirmed, and consistently deny stays in cases involving certificate revocation because revocation incorporates a conclusion that an airman lacks the qualifications required of a certificate holder. Cases involving suspensions of six months or more are evaluated on a case-by-case basis, considering the seriousness of the violations.

See also Administrator v. Powell, NTSB Order No. EA-4328 (1995), and Administrator v. Auburn Flying Service, 5 NTSB 587 (1985), in which the Board denied respondents' requests for stays of 180-day suspensions. Respondent cites no precedent for a holding that a stay would be appropriate in his case.

As the underlying case, NTSB Order No. EA-5275, determined, respondent impermissibly entered into instrument meteorological conditions and narrowly avoided a collision with a commercial aircraft. Thus, the seriousness of the established violations in this case counsel against a stay.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request of a stay of the 240-day suspension affirmed in NTSB Order No. EA-5275 is denied.

Gary L. Halbert
General Counsel